

# SENATE BILL No. 517

## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 35-38-6.

**Synopsis:** Death row inmates. Provides that an inmate under a sentence of death must be housed in a maximum security facility until the execution date. Provides that identifying information concerning the persons executing an inmate under a sentence of death is confidential. Allows the department of correction to exclude a person from viewing an execution if the superintendent of the state prison determines the person may compromise the safety and security of the state prison. Changes references to the title of the head of the state prison from warden to superintendent.

**Effective:** Upon passage.

**Alexa**

January 22, 2001, read first time and referred to Committee on Corrections, Criminal and Civil Procedures.

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Introduced

First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

## SENATE BILL No. 517

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 35-38-6-1 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) The  
3 punishment of death shall be inflicted by intravenous injection of a  
4 lethal substance or substances into the convicted person:

5 (1) in a quantity sufficient to cause the death of the convicted  
6 person; and

7 (2) until the convicted person is dead.

8 (b) The death penalty shall be inflicted before the hour of sunrise on  
9 a date fixed by the sentencing court. However, the execution must not  
10 occur until at least one hundred (100) days after the conviction.

11 (c) The ~~warden~~ **superintendent** of the state prison, or persons  
12 designated by the ~~warden~~ **superintendent**, shall **designate the person**  
13 **who is to** serve as the executioner.

14 (d) The department of correction may adopt rules under IC 4-22-2  
15 necessary to implement subsection (a).

16 SECTION 2. IC 35-38-6-2 IS AMENDED TO READ AS  
17 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. The court in

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which a death sentence is ordered shall issue a warrant to the sheriff within fourteen (14) days of the sentence:

- (1) that is under the seal of the court;
- (2) that contains notice of the conviction and the sentence;
- (3) that is directed to the ~~warden~~ **superintendent** of the state prison; and
- (4) that orders the ~~warden~~ **superintendent** to execute the convicted person at a specified time and date in the state prison.

SECTION 3. IC 35-38-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. A sheriff who receives a warrant under section 2 or section 7 of this chapter shall immediately:

- (1) transport the person to the state prison;
- (2) deliver the person and the warrant to the ~~warden~~ **superintendent** of the prison;
- (3) obtain a receipt for the delivery of the person; and
- (4) deliver the receipt to the clerk of the sentencing court.

SECTION 4. IC 35-38-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) The convicted person shall be confined in ~~the state prison~~ **a maximum security facility** until the date of ~~his~~ **the convicted person's** execution. **A convicted female shall be confined in a maximum security women's prison until not more than thirty (30) days before the date of her execution. A convicted female shall be segregated from male prisoners after her transfer from the women's prison.**

(b) The convicted person's:

- (1) attorney;
- (2) physician;
- (3) relatives;
- (4) friends; and
- (5) spiritual advisor;

may visit ~~him~~ **the convicted person** while ~~he~~ **the convicted person** is confined. The department of correction shall adopt rules, under IC 4-22-2, governing such visits.

SECTION 5. IC 35-38-6-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) Only the following persons may be present at the execution:

- (1) The ~~warden and~~ **superintendent of the state prison.**
- (2) **The person designated by the superintendent of the state prison and any of his** assistants who are necessary to assist ~~him~~ in the execution.
- ~~(2)~~ (3) The prison physician.

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1           ~~(3)~~ **(4)** One (1) other physician.

2           ~~(4)~~ **(5)** The spiritual advisor of the convicted person.

3           ~~(5)~~ **(6)** The prison chaplain.

4           ~~(6)~~ **(7)** Not more than ten (10) friends or relatives of the convicted  
5           person who are invited by the convicted person to attend.

6           **(b) The superintendent of the state prison may exclude a person**  
7           **from viewing the execution if the superintendent determines that**  
8           **the presence of the person would threaten the safety or security of**  
9           **the state prison and sets forth this determination in writing.**

10          **(c) The department of correction:**

11           **(1) shall keep the identities of persons who assist the**  
12           **superintendent of the state prison in an execution**  
13           **confidential; and**

14           **(2) may:**

15               **(A) classify as confidential; and**

16               **(B) withhold from the public;**

17           **any documents that relate to the performance of an execution.**

18          SECTION 6. IC 35-38-6-7 IS AMENDED TO READ AS  
19          FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) If the  
20          convicted person:

21           (1) escapes from custody before the date set for his execution; and

22           (2) is recaptured before the date set for his execution;

23          he shall be ~~returned to the state prison~~ **confined** and executed  
24          according to the terms of the warrant.

25          (b) If the convicted person:

26           (1) escapes from custody before his delivery to the warden; and

27           (2) is recaptured after the date set for his execution;

28          any person may arrest him and commit him to the jail of the county in  
29          which he was sentenced. The sheriff shall notify the sentencing court  
30          of the recapture, and the court shall fix a new date for the execution.  
31          The new execution date must not be less than thirty (30) nor more than  
32          sixty (60) days after the recapture of the person. The court shall issue  
33          a new warrant in the form prescribed by section 2 of this chapter.

34          (c) If the convicted person:

35           (1) escapes from ~~the state prison;~~ **confinement;** and

36           (2) is recaptured after the date set for his execution;

37          any person may arrest him and commit him to the ~~state prison;~~  
38          **department of correction.** When he is returned to the ~~state prison;~~  
39          **department of correction or a facility or place designated by the**  
40          **department of correction,** the ~~warden~~ **department** shall notify the  
41          sentencing court, and the court shall fix a new date for the execution.  
42          The new execution date must not be less than thirty (30) nor more than

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1 sixty (60) days after the recapture of the person. The court shall issue  
 2 a warrant to the ~~warden~~ **department of correction** directing ~~him~~ **the**  
 3 **superintendent of the state prison** to execute the convicted person at  
 4 a specified time and date in the state prison.

5 SECTION 7. IC 35-38-6-8 IS AMENDED TO READ AS  
 6 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) If the  
 7 execution of the death sentence is suspended, the ~~warden~~ **department**  
 8 **of correction** shall note the reason for the delay on the warrant but  
 9 shall proceed with the execution when the period of suspension ends.

10 (b) The warrant shall be returned to the clerk of the sentencing court  
 11 after:

- 12 (1) the convicted person is executed;
- 13 (2) the convicted person has been pardoned;
- 14 (3) the convicted person's judgment has been reversed;
- 15 (4) the convicted person's sentence has been commuted; or
- 16 (5) the convicted person dies before his execution;

17 with a statement concerning the completion of the execution or the  
 18 reason why the person was not executed.

19 SECTION 8. IC 35-38-6-10 IS AMENDED TO READ AS  
 20 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. If the physician  
 21 of the **state** prison and one (1) other physician certify in writing to the  
 22 ~~warden~~ **superintendent of the state prison** and the sentencing court  
 23 that a condemned woman is pregnant, the ~~warden~~ **superintendent** shall  
 24 suspend the execution of the sentence. When the **state** prison physician  
 25 and one (1) other physician certify in writing to the ~~warden~~  
 26 **superintendent of the state prison** and the sentencing court that the  
 27 woman is no longer pregnant, the sentencing court shall immediately  
 28 fix a new execution date.

29 SECTION 9. **An emergency is declared for this act.**

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